

REMARKS

The Examiner has rejected claims 1-2 and allowed claims 3-4. Claims 1-4 are currently pending. The following remarks are considered by Applicants to overcome each of the Examiner's outstanding rejections. An early Notice of Allowance is therefore requested.

I. DRAWINGS

The Examiner objected to the drawings, contending that Figure 6 needed to be more clearly labeled. As previously indicated, Applicants enclose herewith a replacement sheet more clearly labeling Figure 6. Accordingly, Applicants respectfully request withdrawal of the objection.

II. SPECIFICATION

The Examiner objected to the specification, contending that paragraph 0035, line 6, incorrectly disclosed the lens barrel holder as "9a," instead of "10a." As previously indicated, Applicants have amended the specification to identify the lens barrel holder as "10a." Accordingly, Applicants respectfully request withdrawal of the objection.

III. CLAIM REJECTIONS - SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the

burden under 35 U.S.C. § 103 of establishing a prima facie case of obviousness by providing a clear and explicit articulation of the reasons why an invention is obvious.

IV. REJECTION OF CLAIM 1 PURSUANT TO 35 U.S.C. § 102(e) BASED ON TSURUTA

On page 3 of the current Office Action, the Examiner rejected claim 1 pursuant to 35 U.S.C. § 102(e) as being anticipated by Tsuruta (U.S. PG. Pub. No. 2004/0207745, now U.S. Pat. No. 7,440,201). These rejections are respectfully traversed and believed overcome in view of the following discussion.

Tsuruta discloses a lens driving device that includes a moving body having a lens and a drive magnet that is moveable with the lens in an optical axis direction of the lens. The lens driving device also includes a fixed body that moveably supports the moving body in the optical axis direction.

Tsuruta, however, does not disclose the following limitations of amended independent claim 1:

wherein the movable lens body is comprised of a lens-barrel provided with a lens and a lens-barrel holder which movably supports the lens-barrel with respect to the lens-barrel holder in the optical axis direction,

wherein the lens-barrel holder comprises a first magnetic means as the drive means,

...

wherein the lens-barrel is relatively moved with respect to the lens-barrel holder in the optical axis direction so that a focus between the lens provided in the lens-barrel and the imaging element is adjusted, and

According to the claimed invention, the moveable lens body has two components: the lens-barrel and the lens-barrel holder. Focus adjustment can be performed by moving the lens-barrel in the optical axis direction with respect to the lens-barrel holder. Thus, the position of the regulating part, which regulates the moving range in the optical axis direction of the lens-barrel holder, can be maintained, and the positional relationship between the first magnetic means provided in the

lens barrel holder as the driver means and the second magnetic means provided in the fixing body can be maintained.

By contrast, Tsuruta's moveable lens body is a one piece member. Thus, Tsuruta does not disclose a lens drive device "wherein the movable lens body is comprised of a lens-barrel provided with a lens and a lens-barrel holder which movably supports the lens-barrel with respect to the lens-barrel holder in the optical axis direction," or "wherein the lens-barrel holder comprises a first magnetic means as the drive means," as required by amended independent claim 1. Further, the position of a lens (14) cannot be adjusted with respect to a drive magnet (16). Accordingly, focus adjustment cannot be performed by moving the lens-barrel in the optical axis direction with respect to the lens-barrel holder, as also required by amended independent claim 1.

Because Tsuruta fails to disclose each limitation of the claimed invention, Applicants respectfully assert that the Examiner has failed to establish a prima facie case of anticipation of independent claim 1. Therefore, Applicants respectfully request that the Examiner remove the rejection of claim 1 pursuant to 35 U.S.C. § 102(e) as being anticipated by Tsuruta.

V. REJECTION OF CLAIM 2 PURSUANT TO 35 U.S.C. § 103(A) BASED ON TSURUTA AND AKIMOTO

On page 5 of the current Office Action, the Examiner rejects claim 2 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Tsuruta in view of Akimoto (JP 2002-374436). These rejections are respectfully traversed and believed overcome in view of the following discussion.

As discussed above, Tsuruta fails to disclose numerous limitations of amended independent claim 1. Akimoto also fails to disclose these limitations. Further, it would not have been obvious to add these limitations to the teachings of Tsuruta or Akimoto because the references teach away from such features. Among other limitations, Tsuruta and Akimoto fail to disclose a lens drive device "wherein the lens-barrel is relatively moved with respect to the lens-

barrel holder in the optical axis direction so that a focus between the lens provided in the lens-barrel and the imaging element is adjusted.” As discussed above, the Examiner’s primary reference, Tsuruta, discloses a moveable lens body that is a one piece member. Thus, it would be impossible to modify Tsuruta to perform focus adjustment by moving the lens-barrel in the optical axis direction with respect to the lens-barrel holder.

Further, pursuant to 35 U.S.C. 103(c), Tsuruta is not available as a 102(e)/103 reference. 35 U.S.C. 103(c)(1) provides:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

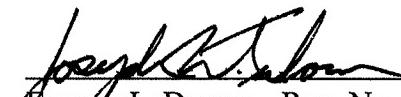
The Examiner indicated on page 3 of the current Office Action that Tsuruta is only a 102(e) prior art reference. Further, Tsuruta and the current invention were, at the time the current invention was made, both owned by, or subject to an assignment to NIDEC Sankyo Corporation. (For Tsuruta, see Reel/Frames 014977/0868, 021539/0585, and 021597/0820.) Further, on page 3 of the current Office Action, the Examiner conceded that “[t]he applied reference has a common assignee with the instant application.” Accordingly, Tsuruta is not available as a 102(e)/103 reference according to 35 U.S.C. 103(c).

For these reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of independent claim 1 or dependent claim 2. Therefore, Applicants respectfully request that the Examiner remove the rejection of claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Tsuruta.

Based upon the above remarks, Applicants respectfully request reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference

with Applicants' attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



Eugene LeDonne – Reg. No. 35,930
Joseph Miller, III – Reg. No. 61,748
Joseph W. Treloar – Reg. No. 60,975

ReedSmith LLP
599 Lexington Avenue
New York, NY 10022
Tel.: 212.521.5400
Attorney for Applicant

ELD:ram
JM:ram
JWT:ram